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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,080	03/24/2004	Baskaran C. Nair	24-0128	7090
7590 12/16/2004			EXAMINER	
Leonard & Proehl, Prof. L.L.C. Attn: Jeffrey A. Proehl 3500 S. First Ave. Circle, Suite 250 Sioux Falls, SD 57105-5807			SMITH, RICHARD A	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,080

Applicant(s)

NAIR, BASKARAN C.

Examiner

R. Alexander Smith

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20040324</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claims 1-10 are objected to because of the following informalities:

Claim 1: "flap" in line 2 should be --flag--.

Claim 10: "flap" in line 2 should be --flag--.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2,270,753 to Fikes in view of U.S. 1,660,341 to Lapworth.

Fikes discloses an artificial wind producing flag pole assembly for maintaining a flag in an unfurled position, the artificial wind producing flag pole assembly comprising two forms, one being as shown in figure 4 with a large generic base with a blower centered, and the other being

Art Unit: 2859

as shown in figure 1 that has a small base for the flag and a separate blower at a distance. In figure 4, Fikes discloses intake holes in the perimeter wall for the blower assembly. In figure 1, Fikes discloses that when the blower assembly is separate from the base assembly that the base assembly is fully enclosed forming a plenum to redirect air coming in the perimeter wall via line 9 into the bore 2 and the bottom of the base being planar.

Using the embodiment in figure 4, Fikes discloses an artificial wind producing flag pole assembly for maintaining a flag in an unfurled position, the artificial wind producing flag pole assembly comprising a base member 11 being adapted for being positioned on a support surface; a blower assembly 8' being coupled to said base member such that said blower assembly is in fluid communication with said base member, a flagpole 1 being coupled to said base member such that said flagpole is in fluid communication with said base member, said flagpole comprising a plurality of exhaust apertures 15 extending into said flagpole such that each of said exhaust apertures allow air blown into said flagpole to be exhausted, said flagpole being adapted for receiving the flag such that the flag is positioned proximate the exhaust apertures to allow the air exhausted through said exhaust apertures to flow over the flag and maintain the flag in the unfurled position; the flag being mounted to the pole via a plurality of collars 5, an upper eyehook for holding the flag, said eyehook being aligned with said exhaust apertures for controlling the flag and keeping it aligned with said apertures, said exhaust apertures are adapted for being aligned with the base edge of the flag such that said exhaust apertures exhaust the air over the base edge and along the sides of the flag to unfurl the flag, said flagpole comprising a perimeter wall, said perimeter wall defining a venting bore 2 extending along a portion of a length of said flagpole, each of said exhaust apertures 15 extending through said perimeter wall

Art Unit: 2859

such that each of said exhaust apertures is in fluid communication with said venting bore, said venting bore comprising an open end in fluid communication with said base member such that air supplied by said blower assembly enters said venting bore through said open end and is exhausted from said venting bore through said exhaust apertures, said base member comprising an upper face, a bottom face and a perimeter face, said flagpole being coupled to said upper face of said base member such that said flagpole extends upwardly from said base member, said bottom face being adapted for being positioned on the support surface, said bottom face of said base member being substantially planar such that said bottom face resists tipping of said base member and said flagpole when said base member is positioned on the support surface and the flag is unfurled from said flag.

Fikes does not disclose in said embodiment, said blower assembly being adapted for blowing air into said base member; said flagpole being positioned opposite said blower assembly such that said blower assembly is adapted for blowing air through said base member into said flagpole, a plurality of clip members being coupled to said flagpole, each of said clip members being adapted for being selectively coupled to the flag such that said clip members are for coupling the flag to said flagpole, said clip members being positioned in a space relationship proximate a top end of said flag pole, said clip members are adapted for being selectively coupled to a base edge of the flag such that said clip members maintain the base edge of the flag in a substantially vertical position and substantially aligned with a longitudinal axis of said flagpole when said clip members are coupled to the base edge of the flag, said exhaust apertures of said flagpole being aligned with said clip members such that said exhaust apertures are positioned between said clip members, said exhaust apertures are adapted for being aligned with

Art Unit: 2859

the base edge of the flag such that said exhaust apertures exhaust the air over the base edge and along the sides of the flag to unfurl the flag when the flag is coupled to said clip members, said clip members being positioned opposite said blower assembly, said clip members being adapted for permitting the flag to extend outwardly from said flagpole in a direction opposite said blower assembly such that a weight of said blower assembly facilitates stability of said flagpole by balancing a force applied to said flagpole by the flag when the flag is unfurled, said base member having a transfer bore wherein said transfer bore extends through the base member such that said transfer bore is in fluid communication with said blower assembly and said open end of said venting bore, said blower assembly being coupled to said perimeter face of said base member.

Lapworth discloses a flag pole assembly wherein a plenum in element 14 is offset from the blower assembly in order to redirect the air from the blower to the flag pole, that the blower motor can be sat upon the same base as the flagpole and offset from the flagpole opposite the flag and its supporting eyehooks and clip members. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the base member, taught by Fikes, to place the blower separate to and attached to a perimeter face and side thereof, as suggested by Lapworth and also by Fikes via the embodiment of figure 1, and opposite the flag, the eyehooks, the clip members and the exhaust apertures, as taught by Lapworth, in order to produce a smaller and lighter overall assembly that will allow the flag to blow in the intended direction while offsetting the imbalance created by a blowing flag.

Lapworth discloses a flag pole assembly wherein the pole comprises eyehooks and the flag includes clip members such that said eyehooks with said clip members are positioned in a space relationship proximate a top end of said flag pole, said eyehooks with said clip members are

adapted for being selectively coupled to a base edge of the flag such that said eyehooks with said clip members maintain the base edge of the flag in a substantially vertical position and substantially aligned with a longitudinal axis of said flagpole when said eyehooks with said clip members are coupled to the base edge of the flag, said exhaust apertures of said flagpole being aligned with said eyehooks with said clip members such that said exhaust apertures are positioned between said eyehooks with said clip members, said exhaust apertures are adapted for being aligned with the base edge of the flag such that said exhaust apertures exhaust the air over the base edge and along the sides of the flag to unfurl the flag when the flag is coupled to said clip members. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the assembly and collars, taught by Fikes, to use eyehooks and clip members and to position them between and to align them with the exhaust apertures, as suggested by Lapworth, in order to allow easier removal and attachment of a flag and to reduce the number of holes needed to be placed in the hole and to reduce energy costs by removing the venting of blown air which does not affect the flag.

With respect to the clip members being attached to the flag pole assembly as claimed: It would have been obvious to one having ordinary skill in the art at the time of the invention was made to place the clip members to the flag pole, since it has been held that rearranging parts of an invention involves only routine skill in the art, In re Japikse 86 USPQ 70, and since this would allow the attachment of flags having grommets for mounting them as is commonly available for modern flags at the time of the invention. .

With respect to said base member having a transfer bore wherein said transfer bore extends through the base member such that said transfer bore is in fluid communication with said blower

Art Unit: 2859

assembly and said open end of said venting bore in claim 7 and claim 10: In figure 1, Fikes discloses that when the blower is separate the perimeter face of the base member is enclosed and a plenum, i.e., chamber 7, is enclosed so to direct air blown from the blower assembly from the opening in the perimeter face into the open end of the venting bore. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the embodiment as shown in figure 4, taught by Fikes as modified by Lapworth, to be completely enclosed, as taught by Fikes, in order to force the blower air up the venting bore of the flagpole when the blower assembly is not directly within the base member. The use of the transfer bore, as claimed by Applicant, is considered to be equivalent to the plenum, as disclosed by Fikes, since: 1) neither non-obvious nor unexpected results, i.e., results which are different in kind and not in degree from the results of the prior art, will be obtained if one is used instead of the other, as long as the blown air is redirect up the flagpole, as already taught by Fikes, and 2) the use of the transfer bore, absent any criticality, is considered to be nothing more than the use of one of numerous and well known alternate types of plenums that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to redirect the air from the blower to the flag pole bore, as already taught by Fikes. In this case to provide a smaller base member which has the same weight and support stability as the embodiment with a plenum in the shape of a chamber.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related assemblies.

Of particular note are (a) US 5,572,835 and US 5,975,009 who disclose flags commonly available now have grommets and (b) JP 2000298444, JP 10049090 and JP 4218090 who show a transfer pipe or bore from the blower assembly to the flagpole or to the base.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Alexander Smith whose telephone number is 571-272-2251. The examiner can normally be reached on Monday through Friday from 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'RAS', with a long horizontal stroke extending to the right.

R. Alexander Smith
Patent Examiner
Technology Center 2800

RAS
December 13, 2004